

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

6 TIMOTHY DOYLE YOUNG,  
7 Petitioner,  
8 vs.  
9 UNITED STATES OF AMER.  
10 Respondent.

Case No: C 12-6017 SBA (pr)

## ORDER OF TRANSFER

13 On November 27, 2012, Petitioner, a prisoner incarcerated at United States  
14 Penitentiary (USP)—Florence, Colorado, filed a document styled as “Habeas Corpus.”  
15 Dkt. 1. In an entirely summary manner, he alleges that: (1) the Prison Litigation Reform  
16 Act is unconstitutional because it allows for cruel and unusual punishment; (2) the Bureau  
17 of Prisons (BOP), USP-Florence, Colorado, and his prison case manager are withholding  
18 unspecified forms; and (3) the BOP has committed perjury in connection with his inmate  
19 account statement.

A petition for a writ of habeas corpus is used to challenge the fact or duration of a prisoner's confinement. Preiser v. Rodriguez, 411 U.S. 475, 484 (1973). In contrast, a civil rights action is the proper mechanism for a prisoner seeking to challenge the conditions of his confinement. 42 U.S.C. § 1983; Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991). Where the defendant is alleged to be the United States, a civil rights claim is appropriately brought pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). Here, because Petitioner's dispute arises from the conditions of his confinement at USP-Florence, the Court liberally construes his pleading as a complaint under Bivens.

1       The federal venue statute requires that a civil action, other than one based on  
2 diversity jurisdiction, be brought only in:

- 3             1) a judicial district in which any defendant resides, if all  
4               defendants are residents of the State in which the district is  
located;  
5             (2) a judicial district in which a substantial part of the events or  
omissions giving rise to the claim occurred, or a substantial part  
6               of property that is the subject of the action is situated; or  
7             (3) if there is no district in which an action may otherwise be  
brought as provided in this section, any judicial district in which  
any defendant is subject to the court's personal jurisdiction with  
8               respect to such action.

9       28 U.S.C. § 1391(b). Under 28 U.S.C. § 1406(a), “[t]he district court of a district in which  
10      is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the  
11      interest of justice, transfer such case to any district or division in which it could have been  
12      brought.”

13       In the instant case, all of the events or omissions giving rise to Petitioner's claims in  
14      this case occurred in Florence, Colorado, which lies within the venue of the District of  
15      Colorado. Therefore, the Court finds that the interests of justice warrant transferring the  
16      instant action to the judicial district where venue is proper. See 28 U.S.C. § 1406(a).  
17       Accordingly,

18       **IT IS HEREBY ORDERED THAT** the Clerk shall transfer the instant action to the  
19      District of Colorado. The Clerk shall close the file and terminate all pending matters.

20       **IT IS SO ORDERED.**

21      Dated: January 18, 2013

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 TIMOTHY DOYLE YOUNG,

5 Plaintiff,

6 v.

7 UNITED STATES et al,

8 Defendant.

9 \_\_\_\_\_ /  
10 Case Number: CV12-06017 SBA  
11  
12 **CERTIFICATE OF SERVICE**  
13  
14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
Court, Northern District of California.  
15 That on January 18, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said  
16 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
17 located in the Clerk's office.  
18  
19  
20 Timothy Doyle Young Reg. No. 60012-001  
U.S. Penitentiary Max-ADX  
21 P.O. Box 8500  
3-5128  
22 Florence, CO 81226-8500  
23 Dated: January 18, 2013  
24 Richard W. Wieking, Clerk  
By: Lisa Clark, Deputy Clerk  
25  
26  
27  
28